

# ***Town Board Minutes***

September 15, 2008

Meeting No. 30

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 15<sup>th</sup> day of September 2008 at 8:00 P.M. and there were

**PRESENT:** JOHN ABRAHAM , COUNCIL MEMBER  
DANIEL AMATURA, COUNCIL MEMBER  
RONALD RUFFINO, COUNCIL MEMBER  
DONNA STEMPIAK, COUNCIL MEMBER  
ROBERT GIZA, SUPERVISOR

**ABSENT:** NONE

**ALSO PRESENT:** JOHANNA COLEMAN, TOWN CLERK  
JOHN DUDZIAK, TOWN ATTORNEY  
LEONARD CAMPISANO, ASSISTANT BUILDING INSPECTOR  
GARY STOLDT, CHIEF OF POLICE  
TERRENCE McCracken, GENERAL CREW CHIEF  
RICHARD REESE JR., HIGHWAY SUPERINTENDENT  
ROBERT HARRIS, ENGINEER, WM. SCHUTT & ASSOCIATES

## **PERSONS ADDRESSING TOWN BOARD:**

**Beutler, Daniel**, spoke to the Town Board on the following matters:

- retention of Police Chief
- box culverts on Seibert & Steinfeldt Roads
- construction cost of Town Hall renovations

**Chowaniec, Lee**, spoke to the Town Board on the following matters:

- vital statistics
- retention of Police Chief

**Schneggenburger, Roy**, spoke to the Town Board on the following matters:

- Pleasant Meadows Subdivision Phase VI
- Town facility at 3949 Walden Avenue

**Winiewicz, Mike**, spoke to the Town Board on the following matter:

- fence in his yard on Americo Court

**PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER RUFFINO, TO WIT:

**RESOLVED,** that the minutes of the Joint Meeting of the Town Board and the Planning Board held September 8, 2008 and the Regular Meeting of the Town Board held September 8, 2008 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER ABRAHAM, TO WIT:

**WHEREAS**, the New York State Local Government Commission on Efficiency and Competitiveness has made recommendations to the Governor which affect the operation of local governments, and

**WHEREAS**, one of the recommendations of the Commission was to move all Registrar of Vital Statistics duties to the County level under the direction of the New York State Health Commissioner, and

**WHEREAS**, the NYS Department of Health has developed a program bill (Senate Bill#S8184 and Assembly Bill#A11560) that would allow the Commissioner to consolidate the function of the local Registrars of Vital Statistics, and

**WHEREAS**, the Commissioner could consolidate these services without County Legislature approval as is required by law currently, and

**WHEREAS**, the NYS Department of Health has inappropriately attached these proposed changes in the structure of the Registrar of Vital Statistics duties to changes in the “Pandemic Flu and Public Health Emergency Preparedness Law”, and

**WHEREAS**, the local City, Town and Village Clerks have provided this service professionally, efficiently and in a timely and cost effective manner over the years, and

**WHEREAS**, the Lancaster Town Board feels with the current high costs and financial stress to citizens, including fuel and the County Hall’s distance from the Town of Lancaster, this would put an additional undue burden on residents as these services would be located much further away and the local registrars currently charge \$10.00 per certified copy and the state proposes to allow the County to charge \$30.00 per certified copy, thereby tripling their current fee, and

**WHEREAS**, the loss of revenues would have a financial impact on the Town of Lancaster as well as all local governments.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that in the interest of its residents and good, efficient, cost effective government, the Town of Lancaster opposes the consolidation of the function of the local Registrars of Vital Statistics to the County, and

**BE IT FURTHER**

**RESOLVED** that the Town of Lancaster appeals to its County and State Officials to oppose the proposed changes to the Public Health Law relating to the Registrars of Vital Statistics and requests that a copy of this resolution be forwarded to Governor David Paterson, Erie County Executive Christopher Collins, Erie County Legislature, Erie County Clerk and the Western New York delegation of the New York State Senate & Assembly.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER STEMPIAK, TO WIT:

A BOND RESOLUTION, DATED SEPTEMBER 15, 2008, OF THE TOWN OF LANCASTER, ERIE COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION ADOPTED MAY 7, 2007, AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF IMPROVEMENTS TO THE TOWN HALL, IN A MAXIMUM AMOUNT NOT TO EXCEED \$1,500,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,500,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

**WHEREAS**, on May 7, 2007 the Town Board of the Town of Lancaster, Erie County, New York adopted a bond resolution authorizing the reconstruction of and construction of improvements to the Town Hall (the "Project"), in an amount not to exceed \$985,000, and

**WHEREAS**, the Town Board has determined to amend the May 7, 2007 bond resolution to increase the maximum estimated cost from \$985,000 to \$1,500,000 due to a change in the scope of the Project, additional equipment and an increase in the cost of equipment, materials and labor, and

**WHEREAS**, the Town Board desired to undertake the revised Project with the increased cost.

**NOW THEREFORE,**

**BE IT RESOLVED**, by the Town Board of the Town of Lancaster, in the County of Erie, New York (the "Town") (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake the reconstruction of and construction of improvements to the Town Hall, and other improvements in connection therewith, including all preliminary work and necessary equipment, materials and related site work and all and all preliminary costs and other improvements and costs incidental thereto (collectively, the "Purpose"). The maximum estimated cost of the Purpose will not exceed \$1,500,000, to be offset by any federal, state, county and/or local funds received.

SECTION 2. The Town Board plans to finance the maximum estimated cost of the Purpose by the issuance of serial bonds in an amount not to exceed \$1,500,000 of the Town, hereby authorized to be issued therefor pursuant to the Local Finance Law, offset by any federal, state, county and/or local funds received.

SECTION 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 12(a)(1) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is 25 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of such bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five (5) years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of such notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of such bonds, and the renewals of such notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. . The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which the Town is not authorized to expend money, or  
(b) if the provisions of the law which should be complied with as of the date of publication of this notice were not substantially complied with  
and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication of this notice, or
2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 13. This resolution is subject to permissive referendum pursuant to Section 35.00 of the Local Finance Law. The Town Clerk is hereby authorized and directed to publish (one time) and post on the sign-board of the Town, this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten (10) days after the date of adoption of this resolution.

SECTION 14. If no petitions are filed in the referendum period, the Town Clerk is hereby authorized to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the official newspaper(s) of the Town, or if no newspaper(s) have been so designated, then in a newspaper having general circulation in the Town, which newspaper shall be designated by the Town Board in a separate resolution.

SECTION 15. Nothing in this amendment shall affect the validity of the original May 7, 2007 bond resolution or any action taken thereunder and any said actions are hereby ratified.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

NOTICE OF ADOPTION OF AN AMENDING BOND RESOLUTION  
SUBJECT TO PERMISSIVE REFERENDUM  
AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION OF  
IMPROVEMENTS TO THE TOWN HALL

Notice is hereby given that at its September 15, 2008 meeting the Town Board of the Town of Lancaster adopted an amending bond resolution that amends a prior resolution dated May 7, 2007 authorizing the reconstruction of and construction of improvements to the Town Hall, including all preliminary work and necessary equipment, materials and site work and all preliminary costs and costs incidental thereto, at the increased estimated maximum amount of \$1,500,000 due to a change in the scope of the Project, additional equipment and an increase in the cost of equipment, materials and labor. The improvements will be paid for by issuing serial bonds, and the receipt of federal, state, county and/or local funds. Such amending bond resolution is subject to permissive referendum pursuant to New York law.

BY ORDER OF THE TOWN BOARD OF  
TOWN OF LANCASTER, ERIE COUNTY,  
NEW YORK

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER STEMPNIAK, TO WIT:

**WHEREAS**, the Town Line Volunteer Fire Department, Inc., by letter dated  
September 9, 2008 has requested the addition of members to the roster of said fire association.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Lancaster hereby confirms  
the additions to the membership of the Town Line Volunteer Fire Department the following  
individuals:

**ADDITIONS:**

Kevin Fortner	Mary Larrabee	Edward Sisson, Jr
255 Brockmoore Drive	1217 Cleveland Drive	11323 Broadway
East Amherst, New York	Cheektowaga, New York	Alden, New York

The question of the adoption of the foregoing resolution was duly put to a vote on  
roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

File: RFIRE (P3)

THE FOLLOWING RESOLUTION WAS OFFERED  
BY COUNCIL MEMBER RUFFINO, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER STEMPIAK, TO WIT:

**WHEREAS,** the Lancaster Town Board awarded a contract for the replacement of box culverts on Siebert Road and Steinfeldt Road to Nichols, Long, and Moore Construction Corporation, on May 5, 2008 at its low bid of \$497,490, and

**WHEREAS,** the construction contract time period for the final completion of the project is 90 days, and

**WHEREAS,** a notice to proceed was issued on May 21, 2008 identifying a project start date of June 1, 2008 and a project final completion date of August 30, 2008 pursuant to the contract, and

**WHEREAS,** Nichols Long, and Moore Construction Corporation is proceeding in a satisfactory manner with the work under the construction contract, and

**WHEREAS,** Nichols, Long, and Moore Construction Corporation experienced a delay from its supplier in the design and fabrication of the box culverts, and they were required to provide additional drainage and drainage structures to address field conditions as the project progressed, and

**WHEREAS,** Nichols, Long, and Moore Construction Corporation submitted a request for a time extension until October 10, 2008 to complete the project, and

**WHEREAS,** Wm. Schutt and Associates, P.C., the Town’s consulting engineer, recommends approval of the time extension in the form of Change Order No. 1 to the existing contract dated May 13, 2008;

**NOW THEREFORE BE IT**

**RESOLVED,** that the Town board of the Town of Lancaster hereby approves Change Order No. 1 to the contract dated May 13, 2008, for the replacement of box culverts, extending the time to final completion by 41 days until October 10, 2008.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

THE FOLLOWING RESOLUTION WAS OFFERED  
BY COUNCIL MEMBER STEMPIAK, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER AMATURA, TO WIT:

**WHEREAS**, Pleasant Meadows, LLC, 2730 Transit Road, West Seneca, New York 14224 has heretofore applied for approval of a 47 single family residential subdivision to be known as “Creekside at Pleasant Meadows Subdivision, Phase VI ” located on Newberry Lane and Juniper Boulevard, and

**WHEREAS**, the Town Consulting Engineer, William Schutt and Associates P.C. has approved the engineering submittals for this proposed subdivision, and

**WHEREAS**, the Planning Board has after due review approved the final plat submitted by the developer, and

**WHEREAS**, the Town acting as lead agency has completed an environmental review in conformance with SEQRA (State Environmental Quality Review Act) regulations, and

**WHEREAS**, the Town Board of the Town of Lancaster has duly reviewed and considered the final plat submitted for the proposed subdivision;

**NOW, THEREFORE, BE IT  
RESOLVED, as follows:**

1. That the Town Board of the Town of Lancaster hereby approves the proposed single family residential subdivision final plat as prepared by Greenman-Pedersen, Inc. Consulting Engineers, dated August 28, 2008 and filed with the Town Clerk on September 2, 2008 for the subdivision to be known as “Creekside at Pleasant Meadows Subdivision, Phase VI” for filing in the Erie County Clerk’s office upon the developer conforming to the following conditions:

a. The project Owner shall apply to FEMA for a Letter of Map Amendment on Fill (LOMA-F) once fill is placed and compacted to remove filled portions of lots 1 through 6 from the flood plain.

2. That the Town Clerk be and is hereby directed to properly endorse the approval of the Town Board of the Town of Lancaster on the linen copy thereof upon the developer.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER RUFFINO, TO WIT:

**WHEREAS, Crown Castle International,** currently has a Tower Site agreement regarding a Ground Lease with the Town of Lancaster for property, namely BU03XC068, SBL No. 115.09-2-30 , and

**WHEREAS,** STC Five LLC (Sprint), a Delaware limited liability company, by Global Signal Acquisitions II LLC, a Delaware limited liability company, its Attorney In Fact, by Global Signal Services LLC, a Delaware limited liability company and its Manager (Lessee) has heretofore contracted with the Town of Lancaster for the use of Town Land, and

**WHEREAS,** STC Five LLC (Sprint), a Delaware limited liability company, by Global Signal Acquisitions II LLC, a Delaware limited liability company, its Attorney In Fact, by Global Signal Services LLC, a Delaware limited liability company and its Manager (Lessee), by Binding Letter Agreement dated August 14, 2008 are requesting amendments be made to the old agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED,** that the Town Board of the Town of Lancaster approves the Binding Letter Agreement and that the Supervisor be and is hereby authorized to execute a Ground Lease Agreement by and between STC Five LLC (Sprint), a Delaware limited liability company, by Global Signal Acquisitions II LLC, a Delaware limited liability company, its Attorney In Fact, by Global Signal Services LLC, a Delaware limited liability company and its Manager (Lessee)on behalf of Crown Castle International and the Town of Lancaster, providing for rental of property for communication towers at property name BU03XC068, SBL No. 115.09-2-30 , in the Town of Lancaster commencing February 14, 2009 and terminating February 13, 2052, all in accordance with the terms of said Agreement.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER AMATURA, TO WIT:

**WHEREAS,** the Town Board of the Town of Lancaster has been notified by the Chief of Police, Gary Stoldt that he will attain the age of seventy (70) years old during October 2008, and

**WHEREAS, Retirement and Social Security Law Section 370 (b)** require that any member who attains the age of seventy (70) shall be retired on the first day of the calendar month next succeeding such event. Notwithstanding **Section 370 (b) of the Retirement and Social Security Law,** the State Civil Service Commission may approve the continuance in service of members who have attained age seventy (70). Such approvals shall be for periods not to exceed two (2) years each. No such approval shall be given unless:

- 1. The head of the department in which the member is employed shall file a written statement with comptroller approving such continuance, and
- 2. The medical Board shall certify that such member is physically fit to perform the duties of this position, and
- 3. The State Civil Service Commission shall find that:
  - A) Such member is less than seventy-eight (78) years of age, and
  - B) His continuance in service would be advantageous because of his expert knowledge and special qualifications.

The service of such member may, however, be terminated at any time by the head of the department in which he is employed, upon sixty (60) days written notice of such member, and

**WHEREAS,** the Town Board has considered Chief Stoldt’s special qualifications, experience, and expert knowledge and deems it in the public interest to retain him as Chief of Police of the Town of Lancaster for a period not exceeding two (2) years as set forth in **Retirement and Social Security Law Section 370 (b).** This period will run from November 1, 2008 to November 1, 2010.

**NOW, THEREFORE, BE IT**

**RESOLVED,** that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to make a formal request as required by the Retirement and Social Security Law Section 370 (b) to the State Comptroller’s Office to permit the retention of Lancaster Police Chief, Gary Stoldt, pursuant to **Retirement and Social Security Law 370 ©.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

THE FOLLOWING RESOLUTION WAS OFFERED  
BY COUNCIL MEMBER STEMPIAK, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER RUFFINO, TO WIT:

**WHEREAS, Kevin R. King**, 71 Michael Anthony Lane, Lancaster, New York 14086, has petitioned the Town Board of the Town of Lancaster for approval allowing him to construct a swimming pool in his backyard, and

**WHEREAS**, the property is currently within a Conservation Easement for the purpose of preventing and precluding any further development of this area and to preserve the natural and scenic resources located therein, and

**WHEREAS**, the Town of Lancaster has full power and authority to enforce these restrictions and conditions as provided in Section 247, Subdivision 4 of the General Municipal law of the State of New York, as the same may be amended from time to time, and

**WHEREAS**, the Town of Lancaster has full power to rescind or modify the Conservation Easement under NYRPAPL Section 49-0307 (a). The language of the Easement specifically reserves the right of the enforcement of the terms of the Easement to the Town alone, and

**WHEREAS**, the Town Board wishes to authorize the Town Supervisor, Town Clerk, and Town Attorney to take all steps necessary to modify the Conservation Easement to permit a pool to be constructed withing the existing Conservation Easement at 71 Michael Anthony Lane with all costs to be borne by the homeowner.

**WHEREAS**, the Town Board of the Town of Lancaster will conduct a public hearing prior to the modification of the Conservation Easement;

**NOW, THEREFORE, BE IT**

**RESOLVED**, a Public Hearing on the proposed amendment to the Conservation Easement for the construction of a swimming pool on the premises locally known as 71 Michael Anthony Lane in the Town of Lancaster, New York, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 6th day of October, 2008, at 8:30 o'clock P.M., Local Time, and that Notice of the time and place of such Hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town, and be posted on the Town Bulletin Board and that a copy of such Notice of Hearing be referred to the Erie County Department of Planning, pursuant to Section 239(m) of the General Municipal Law, which Notice shall be in the form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

**LEGAL NOTICE  
PUBLIC HEARING  
MODIFICATION OF CONSERVATION EASEMENT  
71 MICHAEL ANTHONY LANE**

**LEGAL NOTICE IS HEREBY GIVEN**, pursuant to a resolution of the Town Board of the Town of Lancaster adopted on the 15th day of September, 2008 the said Town Board will hold a Public Hearing on the 6<sup>TH</sup> day of October, 2008, at 8:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the petition of Kevin R. King, for the modification of the Conservation Easement on premises locally known as 71 Michael Anthony Lane, Town of Lancaster, County of Erie, State of New York.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE  
TOWN OF LANCASTER**

**BY:       JOHANNA M. COLEMAN**  
**Town Clerk**

September 15, 2008

THE FOLLOWING RESOLUTION WAS OFFERED  
BY SUPERVISOR GIZA, WHO MOVED ITS  
ADOPTION, SECONDED BY COUNCIL  
MEMBER ABRAHAM, TO WIT:

**RESOLVED**, that the following Audited Claims be and are hereby ordered paid  
from their respective accounts as per abstract to be filed in the Office of the Town Clerk by the  
Director of Administration and Finance, to wit:

Claim No. 4385 to Claim No. 4547 Inclusive

Total amount hereby authorized to be paid: \$529,602.51

The question of the foregoing resolution was duly put to a vote on roll call  
which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

File: Relaims

THE FOLLOWING RESOLUTION WAS OFFERED  
BY COUNCIL MEMBER STEMPIAK, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER ABRAHAM, TO WIT:

**RESOLVED** that the following Building Permit applications be and are hereby reaffirmed:

**CODES:**

- (SW) = Sidewalks as required by Chapter 12-1B. of the Code of the Town of Lancaster are waived for this permit.  
(CSW) = Conditional sidewalk waiver  
(V/L) = Village of Lancaster

**NEW PERMITS:**

16158	Duro-Shed Inc	15 Chicory Ln	Er. Shed	
16159	Home Brands Inc	20 Americo Ct	Er. Shed	
16163	Walkowiak Remodeling	3464 Bowen Rd	Er. Res. Alt.	
16164	Geiger Bros Const	15 Brandel Ave	Er. Garage	(V/L)
16165	Dailey Management	53 Albert Dr	Re-Roof House	(V/L)
16166	American Eagle	55 Lake Ave	Er. Fireplace	(V/L)
16167	Marrano/Marc Equity	9 Pelham Rd	Er. Dwlg.-Sin.	
16168	Marrano/Marc Equity	67 Avian Way	Er. Dwlg.-Sin.	
16169	Leveled Contracting	480 Pleasant View Dr	Re-Roof House	
16170	Sun Enterprises	76 Livingston St	Er. Shed	(V/L)
16171	Besroi Const	15 Mount View Pl	Re-Roof House	(V/L)
16172	Wozniak, Russell	15 Pleasant Ave	Re-Roof House	(V/L)
16173	Kids Korner	2655 Wehrle Dr	Er. Sign-Temp	
16174	Paul Davis Restor	70 Garfield St	Re-Roof House	(V/L)
16175	Marzec Construction	47 Bentley Cir	Er. Res. Add.	
16176	Miller, Donald	2 Trentwood Trl	Re-Roof House	
16177	Home Depot	31 Benson Dr	Re-Roof House	(V/L)
16178	Janis, Deborah	28 Plumb Creek Trl	Re-Roof House	
16179	Lemur Constr.	4605 Walden Ave	Er. Comm. Bldg.	
16180	Fedler Constr.	12 Fox Hunt Rd	Er. Deck	
16181	Grainger Electric	23 Oxford Ave	Inst. Generator	(V/L)
16182	Duro-Shed Inc	177 Nathan's Trl	Er. Shed	
16183	Lamb, David	40 Kurtz Ave	Er. Shed	(V/L)
16184	Rich Pools	60 Village View	Er. Pool-Abv Grnd	
16185	Ferry Builders Inc	284 Pavement Rd	Er. Dwlg.-Sin.	
16186	Morgarucci, Ken	5639 Broadway	Re-Roof House	(V/L)
16187	Tiedemann, Martin	6275 Broadway	Inst Basement Door	
16188	Grau Builders	6 Dover Ct	Er. Dwlg.-Sin.	

**BE IT FURTHER**

**RESOLVED**, that the Building Permit Applications herein coded (SW) for sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance requirement for sidewalks, and

**BE IT FURTHER**

**RESOLVED**, that the Building Permit Applications herein coded (CSW) for conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance required for sidewalks, however, the waiver is granted upon the expressed condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the expense of the property owner.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

September 15, 2008

## COMMUNICATIONS & REPORTS

424. Highway Superintendent to Planning Board Chairman -  
Notice of no concerns regarding Senior Apartments on Pavement Road.  
DISPOSITION = Planning Committee
425. Skene Law Firm, P.C. to Town Clerk -  
Advisement of liquor license renewal application for Applebee's Neighborhood Grill & Bar, 4967 Transit Road. DISPOSITION = Town Attorney
426. NYS DEC to Town Attorney -  
Notice of Lead Agency Designation regarding proposed Lancaster Professional Building, 4893 Transit Road; concerns noted. DISPOSITION = Planning Committee
427. Town Clerk to Town Board -  
Transmittal of monthly report for August 2008. DISPOSITION = Received and Filed
428. Village of Lancaster to Town Board -  
Minutes of meeting held August 26, 2008. DISPOSITION = Received and Filed
429. Town of Newstead to Town Clerk -  
Transmittal of resolution opposing proposed legislation consolidating local Registrar of Vital Statistics duties to County level. DISPOSITION = Resolution 9/15/08
430. Leon G. Robak to Supervisor -  
Notice of intent to retire in second half of the year 2009. DISPOSITION = Received and Filed
431. Planning Board Chairman to Planning Board, Town Board, Engineering Consultant, Town Attorney, Highway Superintendent, Building Inspector -  
Draft copy of minutes of meeting held September 3, 2008. DISPOSITION = Received and Filed
432. Planning Board to Town Board -  
Recommend approval of site plan for Regent Corporation, 3839 Walden Avenue; conditions noted. DISPOSITION = Planning Committee
433. Planning Board to Town Board -  
Recommend approval of site plan for Lancaster Professional Building, east side of Transit Road, south of William Street; conditions noted. DISPOSITION = Planning Committee
434. Superintendent of Schools, Depew Union Free School District to Supervisor -  
Letter of appreciation to Town Arborist Mark Lubera for saving a school owned tree.  
DISPOSITION = Received and Filed
435. Time Warner Cable to Supervisor -  
Notice of additional services in the cable television service. DISPOSITION = Received and Filed
436. Erie County Clerk to Town Assessor -  
Notice of offer for access to on-line county records at no additional cost. DISPOSITION = Received and Filed
437. Wm. Schutt & Associates, P.C. to Town Board -  
Recommend approval to extend completion date of Box Culvert Replacement Project for Siebert Road and Steinfeldt Road to October 10, 2008. DISPOSITION = Received and Filed
438. Time Warner Cable to Supervisor -  
Update to previous letter advising of additional services in the cable television service.  
DISPOSITION = Received and Filed

**ADJOURNMENT:**

**ON MOTION OF COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER AMATURA AND CARRIED,** the meeting was adjourned at 8:36 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk